



STATE SENATOR

RICH ZIPPERER

**Remarks by Rep. Rich Zipperer
Senate Bill 104, Cindy's Law
June 2, 2011**

Senate Bill 104, bipartisan legislation that Senator Carpenter and I have been working on for a couple of years now, is a major step forward in our state's effort to protect victims of domestic abuse. This legislation will grant judges the discretion to order GPS monitoring on high risk individuals who have a protective order placed against them. The protective order delineates specific safe zones - such as the victim's home and place of work - where the offender may not go. Once under GPS monitoring, local police and the victim will immediately be notified if an offender enters a restricted area -- allowing for quick response, and, perhaps just as importantly, some peace of mind for the victim.

Illinois, Massachusetts, and a host of other states have already implemented similar proposals and the results have been highly encouraging -- in fact, a study of the Massachusetts program found no new assaults by those high risk offenders subject to GPS monitoring. Lives are being saved across the country and it is time to bring this successful effort to Wisconsin.

The cost of one system is typically about \$19 dollars per day and, under this proposal, will be paid for first by the offenders themselves, and for those the court deems unable to pay, the costs will be paid by a surcharge levied on those who violate protection orders, creating no new cost to the taxpayers.

I have distributed a handout that walks through the details of the bill, including how a court must make the determination of an offender being a high-risk individual eligible for monitoring, notices that are given to victims, the funding plan of the program, and the implementation plan.

Senate Bill 104 CINDY'S LAW

What the Bill Does

The bill permits a court to order a person who knowingly violates a restraining order or injunction to GPS monitoring for the duration of the restraining order or injunction. *Section 6*

The goal of the bill is to apply only to the highest risk offenders who are likely a danger to the community, yet a court deems other options, such as incarceration, not an option. To find that narrow subgroup of offenders, the bill creates the following "danger assessment factors" for a court to consider. *Section 6*

- Whether the person has allegedly caused physical injury, intentionally abused pets or damaged property, or committed sexual assault, an act of strangulation or forcible entry to gain access to the petitioner.
- Whether the person has threatened any individual, including the petitioner, with harm.
- Whether the person has a history of improperly using or threatening to use a firearm or other dangerous weapon.
- Whether the person has expressed suicidal ideation.
- Whether the person and the petitioner have recently separated, divorced, or otherwise terminated their relationship.
- Whether the person has exhibited obsessive or controlling behavior toward the petitioner or any member of the petitioner's family, including stalking, surveillance, or isolation.
- The person's mental health history.
- Whether the person has a history of abusing alcohol or a controlled substance.

To help make those findings, the court may request the Department of Corrections to provide a validated danger assessment of the person using the same criteria. *Section 6*

If a court finds a person as likely to cause serious bodily harm to the petitioner, poses a serious threat to public safety, or is likely to intimidate witnesses based on the listed danger assessment factors, and the court determines that an available alternative, such as imprisonment, is more likely to prevent those actions, the bill prohibits the court from ordering GPS monitoring in place of the alternative option. *Section 6*

Additionally, if a person is released under s.969.02 and has been charged with violating a restraining order or injunction, a court is authorized under this bill to order the person to GPS monitoring, participate in mental health treatment, a batterer's intervention program, or individual counseling. *Section 9*

Notices Given to Victims

Under the bill, upon ordering GPS monitoring the court shall provide the petitioner with a referral to a domestic violence or sexual assault victim provider. *Section 6*

Also under the bill, the department is required to make the following notices to each petitioner:

- Notice if a person ordered to monitoring is released from incarceration (and thus put on monitoring) *Section 5*
- The exclusion zones the convicted person must avoid and the amount of time the person is allowed to stay within an exclusion zone before law enforcement and the petitioner are alerted *Section 5*
- An explanation of failure rates and situations in which a person may not be detected by the GPS program *Section 5*

Funding of the Program

The goal of the bill is to make it entirely self-funding and not a burden to taxpayers. The following steps have been taken to reach that goal.

- First, the Department shall determine each offender's financial ability to pay for the tracking him/herself. ***Section 5***
- For all violators of domestic restraining orders, a \$200 Global positioning system tracking surcharge shall also be imposed to fund the costs not paid by the offenders themselves. ***Section 13***
- If the program costs are higher than the combination of what the court orders offenders to pay and the surcharge account balance, the Department may by rule increase the surcharge up to 5% annually. ***Section 13***

Another funding goal of the legislation is to ensure the new surcharge does not compete with the current domestic abuse surcharge for funding:

- The surcharge has been renamed the Global positioning system tracking surcharge to avoid any confusion. ***Section 13***
- If a person is ordered to pay the GPS surcharge as part of a deferred prosecution agreement, they shall also be ordered to pay the current domestic abuse surcharge. ***Section 10***
- The bill delineates that payments to the current domestic abuse surcharge take precedence over the GPS tracking surcharge. ***Section 12***
- Finally, if the surcharge account runs a balance of \$100,000 at the end of a fiscal year, the bill orders the transfer of the excess amount to current domestic abuse grants. ***Section 4***

Implementation

The bill directs the Department of Corrections to promulgate rules required to implement the bill, and to consult with organizations dedicated to the prevention of domestic violence, law enforcement agencies, judges, district attorneys, and probation officers to develop an implementation plan. ***Section 14*** To allow the Department time to develop the implementation plan, the Global positioning system program takes effect six months following publication, and first applies to violations of restraining orders after that time. ***Section 15***

The \$200 surcharge begins the day after publication of the Act. ***Section 16***

N2607 Cardinal Ave
Neillsville, WI 54456
June 1, 2011

To The Members of the Senate Judiciary, Utilities, Commerce and Government Operations Committee:

Today you have before you, Cindy's Law, SB104. This will allow a judge to require GPS tracking on repeated domestic abuse violators. I have a personal link to this legislation. Cindy Bischof, a family member, was shot by an ex boyfriend as she left her office in March 2008. Cindy had followed all the rules of the law, but the law couldn't protect her. Ignoring the restraining order that had been issued (he had been arrested already three times for this), wearing a disguise to conceal his identity, and using an illegally obtained gun, Michael L. Giroux shot Cindy and then himself. You see, some people have no regard for the law and this legislation protects the victim without infringing on the liberties of citizens. I don't want any other family to have to experience this senseless loss when there is potential to avoid it. Therefore, I urge you to support this legislation.

In 2009 there was an all time high of domestic violence killings in Wisconsin. "The Wisconsin Domestic Violence Homicide Report shows that in 45% of the fatal incidents there was a known history of domestic violence. Domestic violence killings represented 36% of the 144 homicides in the state last year, according to Uniform Crime Reporting statistics.

In many cases in which the perpetrator had a history of arrests for domestic abuse, earlier charges against them - including battery, violating a restraining order or intimidating a witness - had been dismissed or reduced to disorderly conduct. This is significant because while a domestic violence conviction prohibits the defendant from having a gun under federal law, a disorderly conduct charge does not." (Wisconsin State Journal 9/30/10).

You now have the opportunity to help provide a safety net for domestic violence victims. These victims may be your aunt, cousin, sister, friend or acquaintance. They may be living in fear and you don't even know it. Please support SB104 introduced by Senator Carpenter and Senator Zipperer. This bi partisan legislation is good for Wisconsin citizens. Thank you for your support to put an end to domestic violence.

Sincerely,

Pam Travis